

3. It will be necessary to refer to the facts of

the case in brief. On 19th July 2004, the Deputy Registrar of Co-operative Societies passed an order directing that an Administrator should be appointed insofar as the first petitioner society is concerned. By a further order dated 18th December 2004, a Committee of Administrators consisting of three members was appointed by the Deputy Registrar of Co-operative Societies. By another order dated 19th July 2006 the Deputy Registrar appointed one Shri P.L.Wankhede, Assistant superintendent, as an Administrator by superseding the earlier committee of Administrators. The election programme of the election of the Managing Committee of the first petitioner society was published by Shri Wankhede on 5th August 2006. As per the said programme, final list of eligible candidates was to be published on 5th September 2006 and election was to be held on 10th September 2006. On 8th August 2006, another order was passed by the Deputy Registrar of Co-operative Societies by which Shri Wankhede was substituted by a committee of administrators consisting of three members. The said order passed by the Deputy Registrar was challenged by preferring an appeal before the Divisional Joint Registrar. On 18th August 2006, the Divisional Joint Registrar granted stay to

the operation of order dated 8th August 2006. Thus, from 8th August 2006 till 18th August 2006 Shri Wankhede could not have acted as an Administrator. The appeal was decided by the Divisional Joint Registrar by order dated 1st September 2006. By the said order the Divisional Joint Registrar modified the order dated 8th August 2006 and directed the Deputy Registrar to appoint those persons as the members of the committee who were not the members of the committee which was superseded. On 4th September 2006, the Deputy Registrar of Co-operative Societies appointed another Board of Administrators consisting of three members. On 7th September 2006, the Divisional Joint Registrar decided an appeal preferred against the said order dated 4th September 2006. By the order dated 7th September 2006, the Divisional Joint Registrar passed following order :-

"... The observation of the Dy. Registrar C.S. MHADA in impugned order dt.4.9.2006 to the extent of holding of Election by the Administrative Board is hereby quashed and set aside."

4. A revision application was filed before the State Government for challenging the aforesaid

order dated 7th September 2006 by the Divisional Joint Registrar. By the order dated 17th January 2007 the order dated 7th September 2006 passed by the Divisional Joint Registrar was set aside.

5. The submission of learned counsel for the petitioners is that Shri Wankhede who was lawfully appointed as an Administrator conducted the election and result of the election has already been declared by him on 5th September 2006. He pointed out that the contesting respondents have even challenged the result of the elections by filing a dispute before the Co-operative Court. He submitted that as the election was conducted and held by an administrator appointed under the Maharashtra Co-operative Societies Act, 1960, the said election cannot be disturbed by virtue of order passed by the State Government which is impugned in this petition. The learned AGP supported the impugned order. The learned counsel appearing for respondent nos.1 to 3 opposed the petition by pointing out that Shri Wankhede had no authority to conduct the election.

6. I have considered the submissions. The election programme was published on 5th August

2006 by Shri Wankhede who was at the relevant time the sole Administrator. As per the election programme, the election was to be held on 10th September 2006 after publication of voters' list on 5th September 2006. As pointed out earlier, Shri Wankhede was substituted by a committee of administrators by order dated 8th August 2006. On 18th August 2006 stay was granted to the order dated 8th August 2006. However, by a further order dated 1st September 2006, the order dated 8th August 2006 insofar as it removed Shri Wankhede from the post of administrator was confirmed and a direction was given to appoint another committee of administrators. By order dated 4th September 2006, another committee of administrators was appointed. Thus, the factual position which emerges is that from 1st September 2006 onwards Shri Wankhede could not have acted as the administrator. Hence, Shri Wankhede could not have therefore published the list of eligible candidates and could not have held the election and declared the results of the election.

7. It is not in dispute that the present petitioner nos.1 to 5 are claiming to be elected as members of the Managing Committee on the basis of the election conducted by Shri Wankhede. The

contention of first to third respondents is that no election was held. However, it is not necessary to go into the said aspect as even according to the case of the petitioners, it was Shri Wankhede who published the list of eligible candidates on 1st September 2006 and declared the results of the election on 5th September 2006. The communication dated 5th September 2006 issued by Shri Wankhede is on record of the petition by which he has recorded that the result of the election was declared by him on the very day. Obviously, on that day he had no authority to declare the result of the election as he was no longer the administrator of the petitioner no.1 society. The election held by Shri Wankhede cannot be legal and valid.

8. Therefore, in my view, the entire controversy can be resolved by directing holding of a fresh election of the Managing Committee of the first petitioner society. Till the election is conducted, no policy decision shall be taken by the persons who are claiming members of the Managing Committee. Learned AGP on instructions stated that it will require about three months to hold the elections. He has submitted names of the persons who are in the panel formulated by

the Divisional Joint Registrar for holding the election. Hence I pass following order.

9. ORDER :-

a) The election of the Managing Committee of the first petitioner will be held within a period of three months from today. Shri B.M.Vathure is appointed as the returning officer for holding the elections;

b) Till the elections are held and newly Managing Committee takes charge, no major policy decision shall be taken by the persons who are claiming to be the members of the Managing Committee;

c) No further directions are required to be issued as admittedly the bank account of the first respondent society has been freezed;

d) The petition is disposed of in the above terms with no order as to costs.

10. All concerned to act on an authenticated copy of this order duly issued by the Registry of Bombay High Court.

MST

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(A.S.0KA, J.)